



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during July 2008
DISTRIBUTED: August 7, 2008

This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or Peter.J.Carney@Maine.gov for additional information regarding the activities listed in this report.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Air:

Maine Energy Recovery Company, Limited Partnership, Biddeford, Maine. Maine Energy Recovery Company ("Maine Energy") violated provisions of its Department-issued Air Emission License by exceeding emission limits for CO (carbon monoxide), NOx (nitrogen oxide), and particulate matter. To resolve the violations, Maine Energy paid \$38,700 as a civil monetary penalty.

Asbestos:

R.J. Enterprises, Inc., Richmond, Maine. R.J. Enterprises, Inc. ("R.J. Enterprises") violated provisions of the Department's *Asbestos Management Regulations* while conducting an asbestos abatement activity involving the removal of approximately 600 square feet of asbestos-containing exterior siding at a location in Richmond, Maine. R.J. Enterprises failed to establish a regulated area and a decontamination facility prior to engaging in the removal project, and failed to use protective equipment while removing the siding. To resolve the violations, R.J. Enterprises paid \$5,250 as a civil monetary penalty.

Land:

Timothy Forestall and Nancy Forestall, Harrison, Maine. Timothy and Nancy Forestall ("the Forestalls") violated Maine's *Natural Resources Protection Act* by placing fill, enlarging a rock wall, and erecting a permanent structure adjacent to Long Lake in Harrison without first obtaining permits from the Department. Following Department involvement, the Forestalls removed the fill and moved the structure back to 100 feet from the lake. To resolve the violations, the Forestalls agreed to reestablish vegetation at the site and return the rock wall to its original condition, and paid \$1,285 as a civil monetary penalty.

Joe Vilache, Raymond, Maine. Joe Vilache ("Vilache") violated provisions of Maine's *Natural Resources Protection Act* by pulling several boulders and large rocks from Sebago Lake and placing them at an upland location without first obtaining a permit from the Department. Following Department involvement, Vilache submitted an after-the-fact permit by rule for the movement of rocks, which was approved by the Department, and returned the boulders and rocks to Sebago Lake. To resolve the violation, Vilache paid \$868 as a civil monetary penalty.

Wal-Mart Real Estate Business Trust, Wal-Mart Stores, Inc., Konover Construction Corp., Scarborough, Maine. Wal-Mart Real Estate Business Trust and Wal-Mart Stores, Inc. (collectively, "Wal-Mart") and Konover Construction Corp. ("Konover") violated provisions of Maine's *Site Location of Development* law, the *Natural Resources Protection Act*, and a Department-issued Licensing Order, by cutting trees in a wetland mitigation area, by failing to take all necessary measures to prevent the unreasonable erosion of soils, and by failing to gain approval of a site-specific erosion control plan for a proposed Wal-Mart store location in Scarborough. Additionally, Wal-Mart and Konover violated the *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing or exposing soil without taking measures to control the erosion of soil or sediment beyond the project site and into a nearby forested wetland. Following Department involvement, Wal-Mart



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and Konover temporarily stabilized the site and restored the wetland mitigation area. To resolve the violations, Konover agreed to obtain Department-administered erosion control training for a Konover employee. Wal-Mart and Konover paid \$16,400 as a civil monetary penalty.

Mining:

The Pit, LLC, Mid Coast Gravel Products, Waldo, Maine. The Pit, LLC ("The Pit") and Mid Coast Gravel Products ("Mid Coast Gravel") violated provisions of Maine's *Performance Standards for Excavations* by excavating within fifty feet of a property line, and *Performance Standards for Excavations* and the *Natural Resources Protection Act* by displacing soil and other materials adjacent to a protected natural resource without first obtaining a permit from the Department. To resolve the violations, The Pit and Mid Coast Gravel agreed to submit a restoration plan for the area adjacent to the freshwater wetland to the Department and to either secure a written agreement from the abutting landowner permitting excavation from within fifty feet of the property line or submit a plan for restoration of the buffer. The Pit and Mid Coast Gravel paid \$4,685 as a civil monetary penalty.

Oil:

Maritime Energy, Belmont, Rockland, Rockport, and Warren, Maine. Maritime Energy ("Maritime") violated provisions of Maine's *Underground Oil Storage Facilities and Groundwater Protection* law and the Department's *Rules for Underground Oil Storage Facilities*. Violations, which were spread among six of Maritime's petroleum distribution centers in Maine, included failure to report evidence of possible leaks, failure to inspect and maintain spill containment buckets, failure to maintain leak detection equipment, failure to immediately undertake the removal of discharges, and failure to submit Statistical Inventory Analysis results. To resolve the violations, Maritime agreed to implement written operating procedures and train employees to ensure that evidence of possible leaks are reported to the Department and that spill containment buckets are inspected and maintained. Maritime paid \$33,400 as a civil monetary penalty.

Water:

Wal-Mart Stores East, LP, Biddeford, Maine. Wal-Mart Stores East, LP ("Wal-Mart") violated provisions of Maine's *Protection and Improvement of Waters* law by failing to maintain a Wal-Mart-owned sewage-pumping station in Biddeford. In November 2006, sewage overflowed from the station, which served a Wal-Mart Supercenter and another business, and seeped into a freshwater wetland associated with Thatcher Brook. Biddeford Public Works inspectors determined that the overflow resulted from clogged pumps. To resolve the violation, Wal-Mart paid \$25,473 as a civil monetary penalty.

District Court Enforcement Resolutions (party followed by location):

Cost Recovery:

State of Maine, Maine Department of Environmental Protection v. A.J. Murphy Co., Inc. a/k/a A.J. Murphy Trucking, Dover-Foxcroft, Maine. In a Default Judgment entered by the Thirteenth District Court for the Division of Piscataquis following the Defendant's failure to appear to answer the Department's Complaint, the court ordered A.J. Murphy Co., Inc a/k/a A.J. Murphy Trucking ("A.J. Murphy") to pay \$9,305.55 for clean-up expenses incurred by the Department related to the discharge of diesel fuel following a tractor trailer crash outside of Dover-Foxcroft.



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Superior Court Enforcement Resolutions (party followed by location):

Multi-Program:

State of Maine, Maine Department of Environmental Protection, and Maine Department of Conservation, Bureau of Forestry v. Worcester Holdings, LLC et al., Columbia Falls, Deblois, Jonesboro, TWP 19 MD BPP, Columbia, Maine. The Maine Department of Environmental Protection ("DEP") and the Department of Conservation's Maine Forest Service ("MFS") announced that the two agencies entered into an agreement with Worcester Holdings LLC and Worcester Peat Co., Inc. for violations cited by both agencies. The Washington County Superior Court has approved a consent order incorporating that agreement. The violations occurred on multiple sites in Washington County.

Regarding laws administered by the MFS, Worcester Holdings' harvest operations on a 350-acre parcel resulted in 139 acres and 32 acres of timber being cleared as a change of land use for a wreath brush operation. However, Worcester Holdings failed to complete the land use change within two years of completing the timber harvest as required by Maine's forest practices rules. The landowner was therefore responsible for complying with the state's law and rules governing the size and arrangement of clearcuts. These actions resulted in the creation of Category 2 and Category 3 clearcuts that lacked required harvest plans prepared prior to the harvest by a licensed forester, and that lacked required separation zones. Other harvesting activities resulted in the creation of additional clearcuts.

The consent order also resolves the following violations of laws administered by the DEP: Maine's *Storm Water Law* for not obtaining permits for construction of a warehouse and worker housing; *Site Location of Development Act* for failing to properly construct and maintain ponds and other structures at the Denbo Heath peat mining site; *Protection and Improvement of Waters Act* ("PIWA") for the discharge of peat and other sediment into McCoy Brook and the Narraguagus River; *Natural Resources Protection Act* as well as PIWA for disturbing a stream channel, discharging soil into a stream, improperly replacing culverts with rocks, and placing fill material in a wetland; *Protection and Improvement of Air Act* for failing to renew an air emissions license prior to its expiration; and, *Hazardous Waste, Septage and Solid Waste Management Act* for the use of wood bottom ash in the construction of a road without a license.

In the consent order, Worcester Holdings LLC and Worcester Peat Co., Inc. accepted responsibility for the violations and agreed to pay a \$95,000.00 civil penalty. The civil penalty is intended to remove the financial benefit associated with the violations. The order also contains provisions regarding future performance intended to minimize the potential for future violations.